



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) No.15837 of 2017

and

CrI.M.P. (MD) Nos.10517 and 10518 of 2017

S.Shankar

: Petitioner/Accused No.4

-Vs-

State Rep. by
Inspector of Police,
Vigilance and Anti-Corruption,
Theni District,
Theni.

(Crime No.6 of 2007).

: Respondent/Defacto Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records pertaining to the charge sheet in C.C.No.16 of 2014 on the file of the learned Chief Judicial Magistrate, Theni District, in Crime No.6 of 2007, dated 28.12.2007 on the file of the respondent and quash the same as illegal as against the petitioner.

For Petitioner	: Mr.J.Pandi Dorai, For Mr.T.Lajapathi Roy
For Respondent	: Mr.C.Mayil Vahana Rajendran, Additional Public Prosecutor

ORDER

When this Court was about to dismiss this petition on merits, the learned counsel for the petitioner sought permission of this Court to withdraw this petition and he has also made an endorsement to that effect.

2. Permission is granted. The Criminal Original Petition is dismissed as withdrawn with liberty to the petitioner to raise all the points before the Trial Court, after the charges are framed, since there are *prima facie* materials available in this case for framing of charges. Consequently, the connected miscellaneous petitions are closed.



3. At this juncture, the learned counsel appearing for the petitioner submits that the presence of the petitioner before the Trial Court may be dispensed with.

4. Accepting the submission, this Court directs the petitioner to appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., at the time of framing charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioner files an application under Section 317 Cr.P.C., undertaking that he will not dispute his identity and that his counsel will cross-examine the prosecution witnesses on the day they are examined in chief, as held by the Hon'ble Supreme Court in Vinod Kumar vs. State of Punjab reported in 2015 (1) Scale 542, in his absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If he absconds, a fresh First Information Report can be registered against him under Section 229-A of the Indian Penal Code. If he adopts any dilatory tactics, it is open to the Trial Court to insist upon his presence.

Sd/-

Assistant Registrar (AD-II)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate,
Theni District.
2. The Inspector of Police,
Vigilance and Anti-Corruption,
Theni District,
Theni.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 45353

SML

TE/KKR/SAR-4 : 13/02/2018 : 2P/5C

Order made in
CRL.O.P. (MD) No.15837 of 2017 and
Crl.M.P. (MD) Nos.10517 and 10518 of 2017
Dated: 30.01.2018